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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,301	08/16/2005	Stephen Mulcahy	78803.03501	3670

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EXAMINER

ELKINS, GARY E

ART UNIT PAPER NUMBER

3727

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/509,301

Applicant(s)

MULCAHY ET AL.

Examiner

Gary E. Elkins

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT-Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 2-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following are each a double inclusion of an element insofar as the element is being reintroduced into the claims: claim 2, “opposing side flaps of each main body forming panel”, claim 3, “adjacent side flaps” and “adjacent main body panels” (---adjacent of said side flaps of each of said main body forming panels--- would refer back to those elements previously set forth in the claims), claim 10, “one end flap”, claim 11, line 3, “one pair of opposing side walls” and claim 12, lines 2 and 3, “one pair of opposing side walls”.

In claim 3, “adjacent main body panels” is unclear insofar as only main body forming panels were previously defined in the claims.

In claim 6, “the remote end” lacks antecedent basis in the claims, i.e. the element is only inferentially set forth.

In claim 9, “the truncated end of the side flap” lacks antecedent basis in the claims. Only a truncated corner was previously defined in the claims. Also, “the side flap” is unclear. It would appear that ---the respective side flap--- is the intended meaning.

In claim 10, last line, “the other” lacks antecedent basis in the claims.

In claim 11, line 3 and claim 12, lines 2 and 3, “each of one pair of opposing side walls are formed” is grammatically unclear. Each would appear to refer to a single side wall. As such, the plural verb “are” appears to be in error.

Claim 14 is not understood in light of the disclosed embodiment shown in the drawings. It is unclear how the side flaps of all the main body forming panels are secured to the side flaps of the middle panel, i.e., as disclosed, only the side flaps of one of the main body forming panels is secured to side flaps of the middle panel (with the side flaps of the other main body forming panel being secured to the side flaps of one of the end panels). Also, it is unclear how the end flap is folded over and secured to a main panel. It would appear that one of the end flaps (21) is secured to the other end flap (17) as disclosed. It is further unclear how the side flaps of the main body forming panels are not secured to each other insofar as in the disclosed embodiment, the main body forming panels are interlocked at each opposing side of the carton/support.

In claim 14, line 3, "the end flap" is unclear with respect to which end flap is being referred to. Also, "a main panel" appears to be a double inclusion of an element and is further unclear since two main body forming panels were previously defined.

In claim 15, line 2, "end flap" is unclear since a plurality of end flaps were previously defined in the claims.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2 and 11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ringer.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Henry or Ward (WO '987), each in view of Single. Each of Henry and Ward discloses all structure of the claimed blank/support except formation of the blank/support from corrugated board. Single teaches that it is known to make a collapsible container from corrugated board. It would have been obvious to make the blank/container in either Henry or Ward using corrugated board as taught by Single to acquire the well known advantages of corrugated board, i.e. strength, insulation, puncture resistance, etc. within a container formed as in Henry or Ward. Corrugated board is notoriously well known in this art.

6. Claims 10 and 12, and claims 14 and 15, as best understood in view of paragraph 1 above, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward in view of Single as applied to claim 9 above, and further in view of either Rexford or Zimmerman. Modified Ward fails to evidence orientation of the flutes of the corrugated board longitudinally of the blank. Each of Rexford and Zimmerman teaches that it is known to orient the corrugations in a tubular carton blank in the longitudinal direction of the blank. It would have been obvious to orient the corrugations in modified Ward in the longitudinal direction of the blank as taught by either Rexford or Zimmerman to allow easier folding of the flaps during production and to provide greater crush resistance laterally at the corners of the container.

7. Claims 10, 12 and 13, and claims 14 and 15, as best understood in view of paragraph 1 above, are rejected under 35 U.S.C. 103(a) as being unpatentable over Henry in view of Single as applied to claim 9 above, and further in view of either Rexford or Zimmerman. Modified Henry fails to evidence orientation of the flutes of the corrugated board longitudinally of the blank. Each of Rexford and Zimmerman teaches that it is known to orient the corrugations in a tubular carton blank in the longitudinal direction of the blank. It would have been obvious to orient the corrugations in modified Henry in the longitudinal direction of the blank as taught by either Rexford or Zimmerman to allow easier folding of the flaps during production and to provide greater crush resistance laterally at the corners of the container.

8. Claims 3-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ringer in view of Henry. Ringer discloses all structure of the claimed blank except formation of adjacent side flaps of each main body forming panel with an identical shape, i.e. Ringer shows main body side flaps formed with side edges at different angles. Henry teaches that it is known to make an interlocking collapsible flaps on main body panels with identical shapes. It would have been obvious to make the main body side flaps in Ringer with an identical shape as taught by Henry to provide symmetry during production and thereby simplify manufacture of the die used to make the blank.

9. Claims 10, 12 and 13, and claims 14 and 15, as best understood in view of paragraph 1 above, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ringer in view of Henry as applied to claim 9 above, and further in view of either Rexford or Zimmerman. Modified Ringer fails to evidence orientation of the flutes of the corrugated board longitudinally of the blank. Each of Rexford and Zimmerman teaches that it is known to orient the corrugations in a

tubular carton blank in the longitudinal direction of the blank. It would have been obvious to orient the corrugations in modified Ringer in the longitudinal direction of the blank as taught by either Rexford or Zimmerman to allow easier folding of the flaps during production and to provide greater crush resistance laterally at the corners of the container.

Conclusion

The remaining cited prior art is illustrative of the general state of the art.

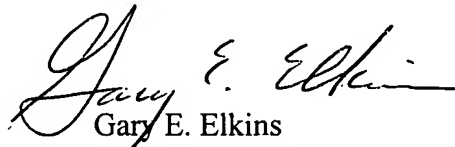
In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses in Office Actions to (571)273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by Applicants who authorize charges to a PTO deposit account. Please identify the Examiner and art unit at the top of your cover sheet.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. Also, copies of an office action or other file information may be obtained from the Private PAIR system. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Gary Elkins at telephone number (571)272-4537. The Examiner can normally be reached Monday, Tuesday and Thursday.

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If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Nathan Newhouse can be reached at (571)272-4544.


Gary E. Elkins
Primary Examiner
Art Unit 3727

gee
26 July 2006